

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

IN RE:	:	CHAPTER 13
	:	
NICHOLAS ODELL USREY,	:	CASE NO. 20-40371-PWB
	:	
Debtor(s);	:	
	:	
-----	:	-----
EXETER FINANCE, LLC	:	CONTESTED MATTER
	:	
Creditor	:	
	:	
Vs.	:	
	:	
NICHOLAS ODELL USREY, Debtor(s);	:	
MARY IDA TOWNSON, Trustee;	:	
	:	
Respondent(s).	:	

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN

COMES NOW Exeter Finance, LLC (the "Creditor"), a creditor of the referenced Debtor, and hereby moves this Court to deny confirmation of Debtor's Chapter 13 ("Plan"). In support of its objection, the Creditor shows the Court as follows:

1.

On February 14, 2020, Nicholas Odell Usrey ("Debtor") filed a Voluntary Petition pursuant to 11 U.S.C. §1301 et seq., and said case is presently pending before this Court.

2.

Creditor has a net claim in this case in the approximate amount of \$17,804.35 secured by a **2016 NISSAN Rogue Utility 4D S AWD I4**, VIN: **KNMAT2MV0GP650350** (the "Collateral"). Copies of the Installment Sales Contract ("Contract") and Certificate of Title are attached as Exhibits "A" and "B" respectively.

3.

Debtor's Chapter 13 Plan proposes to pay Creditor's claim of \$17,804.35 at \$16,680.00 at 5.50% interest.

4.

Creditor objects to the treatment of its claim in the proposed plan. Creditor's claim amount of \$17,804.35 should be paid in full, as the Collateral was purchased on April 05, 2019 which is within 910 days of filing.

5.

The Plan fails to pay the applicable prime plus interest rate. In addition, the debtor must pay the present value of the secured claim by paying the creditor a discount rate of interest as measured by the formula rate expressed by the United States Supreme Court in *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004). See also *Drive Fin. Servs., L.P. v. Jordan*, 521 F.3d 343 (5th Cir. 2008) (applying prime plus rate to vehicle lender's claim). The current prime rate of interest is 3.250%. To the extent that the Plan proposes to pay less than the prime interest rate plus 3.000%, Creditor objects to the confirmation of the Plan.

6.

Finally, the Bankruptcy Code requires that a plan may be confirmed over an objection of a secured creditor only if the payments made under the plan are "in equal monthly amounts." 11 U.S.C. §1325(a)(5)(B)(iii)(I). To the extent that the Plan provides payments to Creditor on a pro rata basis, Creditor objects to the confirmation of the Plan.

7.

This case may not be feasible in contravention of 11 U.S.C. §1325(a)(6). Debtor bears the burden of proving all elements of confirmation, including the feasibility of this case and should be required to produce documents to support all income and expenses listed on Schedules I and J.

8.

The specific terms of the proposed plan itself are not proposed in good faith in violation of 11 U.S.C. §1325(a)(3).

9.

Creditor requests proof of full coverage insurance on the Collateral to ensure it is adequately protected.

WHEREFORE, the Creditor prays that its Objection to Confirmation of Chapter 13 ("Plan") be inquired into and sustained and that it has such other and further relief as this Court deems just and proper.

This March 21, 2020.

Respectfully submitted:
The Law Office of
Lefkoff, Rubin, Gleason & Russo, P.C.
Attorneys for Creditor

By: /s/ Philip Rubin
Philip Rubin
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MARY IDA TOWNSON, Trustee;	:	
	:	
Respondent(s).	:	
	:	

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN on the following parties 1) electronically, if allowed by and pursuant to the requirements of local rule, or 2) by depositing same in the United States Mail in properly addressed envelope(s) with adequate postage to all others, as follows:

Nicholas Odell Usrey
1386 Sitton Rd S
Chatsworth, GA 30705

Dan Saeger
Saeger & Associates, LLC
Suite D,
706 S Thornton Ave
Dalton, GA 30720

Mary Ida Townson
Suite 1600,
285 Peachtree Center Ave, NE
Atlanta, GA 30303

This March 21, 2020.

Respectfully Submitted:
The Law Office of
Lefkoff, Rubin, Gleason & Russo, P.C.
Attorneys for Movant

By: /s/Philip Rubin
Philip Rubin
GA Bar No. 618525